

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

August 17, 2006

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, August 17, 2006, at 2:00 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Harold Warner Jr., Chair; Darrell Downing Vice-Chair; John W. McKay Jr. (in @ 2:07); Bill Johnson; Bob Aldrich; Elizabeth Bishop; M.S. Mitchell; Don Anderson; Denise Sherman; Bud Hentzen; Ronald Marnell; Hoyt Hillman; Morris K. Dunlap and Michael Gisick. Staff members present were: John L. Schlegel, Secretary; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner; and Maryann Crockett, Recording Secretary.

1. Approval of August 3, 2006 MAPC minutes.

MOTION: To approve the August 3, 2006, MAPC meeting minutes.

MITCHELL moved, **ALDRICH** seconded the motion and it carried 13-0.

❖ SUBDIVISION ITEMS

2. Consideration of Subdivision Committee recommendations from the meeting of August 10, 2006.

2-1. SUB 2006-24: Revised One-Step Final Plat – OLIVIA'S 1ST ADDITION, located on the west side of Hoover and north of Central Rock Road.

NOTE: This is an unplatted site located within the City.

The zone change request (ZON 2006-10) from SF-5, Single-Family Residential to TF-3, Two-Family Residential has been denied by City Council. This revised plat increased the number of lots adjoining Hoover to four.

STAFF COMMENTS:

- A. Water and sewer services are available to serve this site. The applicant is advised that Lot 4 only has access to water on Hoover
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved subject to revisions. The plat's datum is in City and should be converted to NGVD, per subdivision regulations. Drainage easements shall be shown on the plat that overlays the 20' utility easement with a drainage easement described along the north line from the west line of the plat to the 20' utility easement. A cross lot drainage agreement is needed.**
- D. Since drainage will be directed onto I-235, a letter shall be provided from KDOT indicating their agreement to accept such drainage.
- E. **Traffic Engineering** needs to comment on the access controls. The plat proposes four openings along Hoover. **The access controls are approved.**
- F. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- G. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- H. The signature line for the City Clerk needs to be revised to reference "Karen Sublett".
- I. Lot 4 does not conform with the 50-foot lot width requirement for the SF-5 District. An administrative adjustment will need to be approved prior to City Council review
- J. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- K. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.

- L. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- S. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. Westar Energy has requested additional easements.
- T. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff comments.

MORRIS moved, **HILLMAN** seconded the motion and it carried (13-0).

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- 2-2. SUB 2006-71: One-Step Final Plat – ANIMAL SERVICES CAMPUS ADDITION**, located north of 29th Street North and on the west side of Hillside.

NOTE: This is a replat of a portion of the Northeast Substation Addition in addition to unplatted property. This site is subject to a Conditional Use (CON2001-53) for clean rubble and construction and demolition landfill.

STAFF COMMENTS:

- A. Municipal services are available to serve the site.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. An offsite drainage agreement should be requested between the applicant and the Missouri & Pacific Railroad.
- D. **Traffic Engineering** needs to comment on the access controls. The plat proposes two openings along Hillside. The final plat tracing shall reference the dedication of access controls in the plat's text. Two openings are approved.
- E. **Traffic Engineering** has requested that the southernmost opening along Hillside be relocated in conformance with Subdivision Regulations, which requires 150 feet of complete access control from the centerline of the nearest railroad track.
- F. The City of Wichita is indicated as holding an interest in this property's ownership and has been shown as the site's platlor. The owner's certification needs to reference Carlos Mayans, Mayor.
- G. The Reserve A is indicated as providing for easements. These easements should be platted to avoid conflict with the possible locations of structures indicated therein (recreational facilities).
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. A covenant shall be submitted regarding ownership and maintenance responsibilities.
- I. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the

governing body.

- J. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- K. "Lot, Block, and Reserve" shall be referenced in the plat's text.
- L. **GIS** has requested that Hillside Avenue be labeled as "Hillside Ave".
- M. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- N. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- O. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Q. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- S. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- V. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- W. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff comments.

MORRIS moved, **HILLMAN** seconded the motion and it carried (13-0).

2-3. SUB 2006-72 One-Step Final Plat – ARMSTRONG ESTATES ADDITION, located on the west side of Hoover and north of Central.

NOTE: This is an unplatted site located within the City.

STAFF COMMENTS:

- A. Water service is available on Hoover. Sewer needs to be extended and in lieu of assessment for sewer main needs to be included in the petition. **The 20-ft utility easement along the north line of Lot 2 needs to be platted along the north line of Lot 1.**
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved subject to revisions.**
- D. Since drainage will be directed onto I-235, a letter shall be provided from KDOT indicating their agreement to accept such

drainage.

- E. If platted, the building setback for Lot 1 should be measured from the rear lot lines of Lots 2 and 3.
- F. If platted, the building setback for Lot 6 should be measured from the rear lot lines of Lots 4 and 5.
- G. **Traffic Engineering** has requested the dedication of an additional 5 feet of street right-of-way along Hoover.
- H. Interstate 235 should be labeled.
- I. "Lots, a Block, and a Street" shall be referenced in the plat's text.
- J. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- K. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- L. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- M. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- T. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- U. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff comments.

MORRIS moved, **HILLMAN** seconded the motion and it carried (13-0).

❖ **PUBLIC HEARINGS – VACATION ITEMS**

3-1. VAC2006-29: Request to Vacate a Portion of Platted Setback

APPLICANTS/OWNERS:

Robert & Joni O'Brien

LEGAL DESCRIPTION:

Generally described as the west 10-feet of the platted 35-foot setback that runs parallel to east lot line of Lot 16, Block 1, Sycamore Village 4th Addition, as recorded with Wichita, Sedgwick County, Kansas

LOCATION: Generally located on the northwest corner of the Rock Road – Rock Road Court intersection.
(WCC #2)

REASON FOR REQUEST: Additional space to build a pool and deck.

CURRENT ZONING: Site and all property in the area are zoned “SF-5” Single-family Residential.

The applicants require an additional 10-feet to build a pool and deck, thus the request. Per the Unified Zoning Code (UZC) the “SF-5” zoning district has a minimum 15-foot street side yard setback. The applicants’ request would reduce the platted 35-foot street side yard setback to 25-feet; 10-feet more than the UZC’s minimum street side yard setback. The site is located within CUP DP-73. The site is 1 of 16 residential lots located in Parcel 9A. If the request is approved the applicant will have to apply for an adjustment to the CUP to reflect the described vacated street side yard setback. There is a sewer line located in a platted 15-foot utility easement, which is contained within the described platted street side yard setback. There is no water or utilities located within the easement or the described setback. The Sycamore Village 4th Addition was recorded with the Register of Deeds May 20, 1985.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from Public Works/Water & Sewer/Storm Water, franchised utility representatives and other interested parties, Planning Staff recommends approval of the vacation of this portion of platted 35-foot setback as described.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time July 28, 2006, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted setback and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of the portion of the platted 35-foot setbacks, described in the petition should be approved with conditions:

- (1) Vacate the only that portion of the platted 35-foot street side setback, running parallel to the east lot line of Lot 16, Block 1, Sycamore Village 4th Addition, where the pool and deck will encroach. Provide staff will a metes and bounds legal of the area encroaching on a Word document, via e-mail.
- (2) Apply for a CUP adjustment that will reflect the approved vacation request.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant’s expense.
- (4) Provide Planning Staff with a dedication of 10-feet of right-of-way to run parallel to the site’s east property line.
- (5) All improvements shall be according to City Standards, including all the required City permits and inspections, at the owners’ expense.
- (6) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE’S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the only that portion of the platted 35-foot street side setback, running parallel to the east lot line of Lot 16, Block 1, Sycamore Village 4th Addition, where the pool and deck will encroach. Provide staff will a metes and bounds legal of the area encroaching on a Word document, via e-mail.
- (2) Apply for a CUP adjustment that will reflect the approved vacation request.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant’s expense.
- (4) Provide Planning Staff with a dedication of 10-feet of right-of-way to run parallel to the site’s east property line.
- (5) All improvements shall be according to City Standards, including all the required City permits and inspections, at the owners’ expense.
- (6) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the

Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

MOTION: To approve subject to staff comments.

DOWNING moved, **ANDERSON** seconded the motion and it carried (13-0).

❖ **PUBLIC HEARINGS**

4. **Case No.: ZON2006-27** – Gerard Hotze (owners); POE & Associates c/o Kenny Hill (agent) Request County zone change request from RR Rural Residential to SF-20 Single-family Residential for a residential development on 17 acres.

A tract of land in the East Half of the Northeast Quarter of Section 16, Township 26 South, Range 1 West of the 6th Principal Meridian, Sedgwick County, Kansas, described as follows: Beginning at a point on the East line and 1315.44 feet South of the Northeast Corner of Section 16; thence South along the East line of 558.93 feet; thence West parallel with the North line of said East Half of the Northeast Quarter of Section 16; 1324.65 feet more or less to the West line of said East Half of the Northeast Quarter of said Section 16; thence North along said West line 558.93 feet; thence East 1325.5 feet more or less to the point of beginning. Generally located Northwest of 53rd and Ridge Road.

BACKGROUND: The 16.76-acre unplatted site is located southwest of the Ridge and 61st Street N intersection and is zoned "RR" Rural Residential. The site is currently used for a farmstead/single-family residence, and has a 150-foot power line utility easement along the north property line. The applicant proposes to plat the site for nine lots ranging in size from approximately 40,000 to 41,000 square feet (see attached proposed plat). The proposed lots sizes require a zone change, as the existing RR zoning would require a two-acre minimum lot size. The requested "SF-20" Single-family Residential zoning would permit a one half-acre minimum lot size. The MAPC Subdivision Committee has not heard the proposed plat.

The applicant proposes on-site alternative septic systems, which will require county approval, and individual wells which will require county approval of a safe-yield for water availability. This site is located within the Equus Beds Water Management District jurisdiction. Immediate surrounding zoning is all RR and developed with large-lot residential, farmsteads, and agricultural uses. Several sand extraction locations, some active and some closed exist in the surrounding area. One-quarter mile southwest of this site is the SF-20 zoned Mystic Lakes residential development with one-acre lots; this development took place prior to the current Urban Fringe Development Policy. Further south, along the 53rd Street North corridor, is some Neighborhood Office, General Office, Limited Industrial, and Limited Commercial zoning. Southeast of the Ridge and 53rd Street N intersection is SF-20 zoning and residential development. This request is located within the Maize Zoning Area of Influence, and will be heard by the Maize Planning Commission.

CASE HISTORY: None

ADJACENT ZONING AND LAND USE:

NORTH: RR Rural Residential; single-family residential, farmstead, agriculture
SOUTH: RR Rural Residential; single-family residential, farmstead, agriculture, sand extraction
EAST: RR Rural Residential; single-family residential, farmstead, agriculture
WEST: RR Rural Residential; single-family residential, farmstead, agriculture

PUBLIC SERVICES: Municipal sewer and water services are not available. Ridge Road is a two-lane arterial at this location; the 2030 transportation plan designates it to remain a two-lane arterial. This portion of Ridge road had a 2004 traffic count of 3,906 vehicles per day. Nearby 61st Street N is unpaved, and nearby 53rd Street N is a paved two-lane arterial.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide map depicts this site as a "rural area." Rural areas encompass land outside the 2030 Urban Growth Areas predicted for Sedgwick County cities. It is intended that agricultural uses, rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County, and predominately larger lot residential exurban subdivisions (with lot sizes of two acres or more) with provision for individual, or community water and sewer services are appropriate. This site is over one-quarter mile north of the Wichita 2030 Urban Growth Area, and one-eighth mile east of the Maize Urban Growth Area.

The Comprehensive Plan contains an objective that states that the County is to enhance and encourage agricultural activities within Sedgwick County, recognizing that viable agricultural land exists within the County. The plan also contains a goal of providing for rural, suburban, and urban residential areas, which provide a variety of housing opportunities.

The Urban Fringe Policies (an adopted portion of the Subdivision Ordinance) anticipate that increased zoning (permitting more intense development in rural areas) would be located within designated growth areas, anticipating annexation and municipal services. The Urban Fringe Policies also require a minimum lot size of one acre for on-site water wells.

RECOMMENDATION: The proposed rezoning is not consistent with the predominant RR zoning and agricultural uses existing in the immediate area. It is however not out of character with land uses within approximately one-quarter mile. This zone change request is not consistent with the Comprehensive Plan Functional Land Use Guide designation of this area as "rural" and outside the Urban Growth Areas.

The applicant has not demonstrated that he can meet basic requirements for the use of alternative septic systems or that he has adequate water quantity and quality to support the requested zoning. Staff recommends that these two requirements be

demonstrated prior to a zone change; without these demonstrations it is inappropriate to approve a zone change that cannot be utilized. Likewise, the applicant proposes lots that do not meet the Urban Fringe Policy one-acre minimum to be considered for on-site well water. Based upon information available prior to the public hearings, planning staff recommends that the request be DENIED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All immediately surrounding land is zoned "RR" Rural Residential; the request is out of character with all adjacent tracts of five acres or larger. Several sand extraction operations are active in the surrounding area, and a mix of zoning to include "SF-20" Single-family Residential exists over one-quarter mile away.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "RR" Rural Residential which primarily permits agricultural activities and large-lot residential uses. The site could be used under the current zoning for two-acre or larger lots. The current zoning is in character with immediately surrounding uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Rezoning will permit residential development at four times the density that is permitted by the existing zoning, which will change the character of the immediate area, increase traffic, and increase demand for public services such as law enforcement, fire protection, and code enforcement. This request has not demonstrated that proposed on-site water and sewer systems would not have a negative affect on surrounding properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Comprehensive Plan Functional Land Use Guide indicates this site is outside of any city's projected growth or Urban Service Area, and is designated for rural uses and residential lots of two-acres or larger. The applicant has not demonstrated the ability to meet basic requirements for the use of alternative septic systems or that he has adequate water quantity and quality to support the requested zoning, as required by the Urban Fringe Policies. The applicant's proposed lot size does not meet the Subdivision Code one-acre minimum to be eligible for on-site water wells.
5. Impact of the proposed development on community facilities: The proposed increase in zoning density will increase traffic on Ridge Road, increase demand on law enforcement, fire protection and EMS, and increase demand on water resources.

JESS McNEELY, Planning Staff, presented the staff report.

McKay in at 2:07 pm

There was a brief discussion concerning whether sand extraction areas had already been platted and the size of the lots. **McNEELY** reported that the lots at Mystic Lake were just under one acre each. Responding to a question from **HENTZEN** regarding septic systems, **McNEELY** explained that as Mystic Lake was an older development, the lots there had typical septic systems, which were used prior to the development of alternative septic systems. Responding to **GISICK**, he further explained that the request did not meet the requirements of the Comprehensive Plan and that zoning approval was subject to the applicant meeting the platting requirements.

KENNY HILL, POE AND ASSOCIATES, applicant, reported that the at the August 3 meeting, the Maize Planning Commission recommended unanimous approval of the request. He commented that the developer has hired Ground Water Associates to do a "safe yield analysis" at the site; as well as hiring a company to do a "soil profiling analysis" to determine if on-site package sewage (alternative treatment) would be acceptable in the area. He said preliminary information indicates that County approval is likely. He also mentioned that they had no problem with staff comments on the proposed project, or complying with the request to increase the lot sizes to one acre. He concluded by saying that although Planning Staff recommended denial because the area was outside the urban growth area by one-quarter of a mile, the City of Maize, which was the closest city to the site, had no objections to the project. He suggested conditional approval of the requested zone change, subject to the developer meeting the platting requirements.

MOTION: To approve the zone change from "RR" Rural Residential to "SF-20" single-family residential, subject to plat approval.

ALDRICH moved, **MITCHELL** seconded the motion.

BISHOP explained that she would have to vote "nay" on the proposed zone change request because it was "leap frog development." She expressed concern about the proposed alternative sewage treatment facilities and what would happen once municipal water and sewer reached the area. She added that she believed the Commission should follow the provisions of the Comprehensive Plan.

HILLMAN asked for clarification that any sewage treatment in the area must be designed so it can be tied into a municipal sewer system.

McNEELY verified that assumption was in accordance with Urban Fringe Standards, that was correct.

WARNER clarified that if the plat did not get approved; the zoning would not change.

McNEELY said that was also correct.

MOTION CARRIED : (11-3). **BISHOP, HILLMAN, MARNELL** opposed

5. **Case No.: CUP2006-31 DP 56** -Phoenix Plaza, LLC, ETAL, Jones-Oakmont, LLC c/o Dale Jones (owner); Baughman Company PA c/o Terry Smythe (agent) Request Amendment #5 – To allow an additional ground sign on Parcel 2.

Lots 1 and 2, Plaza Twenty One 2nd Addition, Wichita, Kansas, Sedgwick County, Kansas. Generally located Northwest corner of 21st Street North and Woodlawn.

BACKGROUND: The applicant proposes an additional on-site ground sign and additional total sign area to be applied on the site's 21st Street North frontage; located on Parcel 2, Community Unit Plan (CUP) DP-56. DP-56 is a 6.3-acre CUP with four (4) parcels located on the northwest corner of 21st Street North and Woodlawn Avenue. The CUP has approximately 959-feet of frontage along 21st located on Parcels 1, 2 & 4. Approximately 760-feet of the frontage is zoned "LC" Limited Commercial with the remainder zoned "GO" General Office. The proposed sign will be located within the site's "LC" zoned portion of the frontage. There are currently six (6) on-site ground signs located within the "LC" zoned portion of the site's 21st frontage, which is one over what is what is allowed for "LC" zoning district, based on the spacing of 150 feet apart per the sign code. The Wichita Sign Code does not authorize requesting an increase in sign locations as an administrative action. The proposed sign requires an amendment to the CUP to allow it. The current total square footage for these existing signs' area is 684-square feet. The proposed sign's area is 47.35-square feet, which would bring the total up to 731.35-square feet. The total allowed per the "LC" zoning district for this amount of frontage is 590-square feet; both the current total and the proposed total exceeds the maximum allowed and requires an amendment to the CUP. The proposed sign will be for a new business to be located in a building currently under construction.

"Exhibit A" shows the proposed sign. Total sign height is 25-feet in height, which is allowed in the CUP. The sign would be positioned approximately 150-feet east of the Big Lots' sign and 200-feet east of the Kum & Go sign. The sign would also be approximately 15-feet west of a Felipe's ground sign, which is located more than 35-feet away from 21st and as such does not fall under the 150-foot spacing rule.

The site is located within a commercial CUP, developed with a mix of free standing retail, restaurants, office, convenience store and strip retail buildings containing a dry cleaners, a restaurant, a liquor store, a comedy club, a hair salon and other similar retail/commercial and office uses. A similar sized and developed CUP, zoned "LC", is located south of the site across 21st. A more recently developed and larger commercial CUP, zoned "LC", is located southeast of the site, across the 21st – Woodlawn intersection. Single-family residential development, zoned "SF-5" Single-family Residential, abuts the site's west side and is also located east of the site, across Woodlawn. "B" and "MF-29" Multi-family Residential zoned apartments are located north of the site, across 22nd Street North.

CASE HISTORY: The property is platted as the Third Addition to the Crestview Heights Addition, which was recorded April 24, 1959. DP-56 was originally approved January 3, 1984, and has been amended four times previously.

ADJACENT ZONING AND LAND USE:

NORTH: "B",	"MF-29"	Multi-family Residential
SOUTH: "LC"		Retail, office, restaurant, entertainment with CUP overlays
EAST: "SF-5"		Single-family Residential
WEST: "SF-5"		Single-family Residential

PUBLIC SERVICES: The proposed amendment pertains only to signage regulations and has no impact on public services.

CONFORMANCE TO PLANS/POLICIES: The Comprehensive Plan Land Use-Commercial/Office Objective/Strategy III.B.2 seeks to integrate the development of out parcels to planned retail centers through combined signage. Sign control is one of the elements that can be established by CUPs (Unified Zoning Code, Article III, Section III-C.2.a Purpose) with the general guidelines of character of the development appropriate to the neighborhood and to minimize any diminution to surrounding property. This is an older CUP with minimal standards for signs, as referenced in General Provision #5. Provision #5 permits signs along 21st and Woodlawn, has a maximum sign height of 30-feet, prohibits them from projecting over street right-of-way, prohibits billboards and roof signs and prohibits portable signs on Parcel 4. All other applicable standards for signs in this CUP, such as number permitted, maximum sign area, etc, etc would come from the current Sign Code. The proposed amendment to the CUP allows more on-site ground signage along the site's 21st Street frontage (1) and adds to an already exceeded maximum area sign, boasting the total by (+) 20%.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED to allow one additional on-site ground sign and its additional sign area (47.35-feet) to the site's (Parcel 2) 21st Street North frontage, along with a stamped survey confirming and updating the location, spacing, height, and square footage of the existing signage and the proposed sign along the site's 21st Street North frontage, within 90 days of approval of Amendment #5 to CUP DP-56.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property is located on a commercially developed corner of the 21st – Woodlawn intersection. Across 21st, south of the subject site, is another older CUP (DP-35), zoned "LC", which has development and signage similar to the subject sites. A slightly more recent CUP (DP-67) is developed on a larger scale with somewhat more integrated development and signage. Single-family residential development abuts the site's west side. There is more "SF-5" zoned single-family residential development located east and across Woodlawn from the subject site. North of the site and across 22nd Street North, "B" and "MF-29" zoned properties are developed as apartments.
2. The suitability of the subject property for the uses to which it has been restricted: Co-locating on an existing sign could be an option, but the issue of exceeding the maximum sign area would still remain even without the added maximum area of the proposed sign.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The sign would not be significantly different in spacing or size than other ground signs along this western corner of the 21st – Woodlawn intersection.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Comprehensive Plan Land Use-Commercial/Office Objective/Strategy III.B.2 seeks to integrate the development of out parcels to planned retail centers through combined signage. Sign control is one of the elements that can be established by CUPs (Unified Zoning Code, Article III, Section III-C.2.a Purpose) with the general guidelines of character of the development appropriate to the neighborhood and to minimize any diminution to surrounding property. DP-56 has minimal language in regards to signage, leaving the Sign Code to provide the remainder of the minimum standards for on-site ground signs for the site's base "LC" and "GO" zoning. The proposed sign will be typical of the signage already in place along this western corner of the 21st – Woodlawn intersection and should not significantly affect the surrounding property.

MOTION: To approve subject to staff comments.

DUNLAP moved, **DOWING** seconded the motion and it carried (13-0).

6. **Case No.: CON2006-32** – Teresa L. Neal (co-lessee) and EnviroClean Management Services, Inc. (Preston H. Tuttle, co-lessee) /Preston H. Tuttle (agent) Request Conditional use to permit a medical waste transfer station (truck to truck).

The West 127 feet of Lot 5, Block 1, Kessler-Koch Addition, Sedgwick County, Kansas. Generally located South side of 30th Street South and east of West Street (3535 W. 30th Street South).

BACKGROUND: The applicants are seeking approval of a "conditional use" to operate a transfer station for medical waste. EnviroClean Management Services, Inc. (EMSI) currently operates a medical waste collection and disposal service. The collection process is as follows. One to two smaller vehicles (cargo vans) collect medical waste from various medical facilities around town. These smaller vehicles would then travel to the application site, 3535 West 30 Street South, where the waste is to be transferred to one or two larger long haul vehicles. The larger long haul trailers and their contents are then taken to Emporia, Kansas where the waste is permanently disposed. The application area will not be used as a final disposal location for any of the waste. EMSI will use the site strictly as a transfer location. All waste is sealed during the collection and transport process, and is on-site for less than seven days. Most waste is to be transported within 48 hours. The waste is handled in compliance with State of Kansas medical waste regulations (K.A.R. 28-29-27). Municipal solid waste will not be accepted or transferred at this location.

The application site is a platted lot, zoned LI Limited Industrial and 1.1 acre in size that is developed with a 4,000 square foot building. The applicants will lease the entire site, but they intend to use only the western portion of the building for storage of cleaning supplies and bathroom uses. The building will not be used for transfer station activities. The majority of the site is undeveloped providing ample space for parking, trailer storage and traffic circulation.

Adjacent properties to the north, east and west are used for industrial uses. The land to the south is developed with single-family residential uses. There is a significant hedgerow separating the application area from the residential lots.

CASE HISTORY: The property is part of the Kessler-Koch Addition, recorded in 1975.

ADJACENT ZONING AND LAND USE:

NORTH:	LI	Limited Industrial; industrial
SOUTH:	MF-29	Multi-family Residential; residential
EAST:	LI	Limited Industrial; industrial
WEST:	LI	Limited Industrial; industrial

PUBLIC SERVICES: The site is a platted lot with all normally provided public services available.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" depicts this site as appropriate for "employment/industry center."

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. Permitted uses shall be restricted to those permitted by-right in the "LI" Limited Industrial district plus "transfer station" restricted to the collection, transfer and transport of medical waste. Only medical wastes (as defined in K.A.R. 28-29-27) may be received or handled at this location. No other types of solid waste may be accepted or processed at this location, nor may any waste of any kind be disposed on the site.
2. All vehicles transporting medical waste in or out of the facility are to be licensed by the appropriate licensing agencies, and the applicant shall obtain all applicable local, state or federal permits prior to commencing operations on the site. (Including, but not limited to, Chapter 7.08 of the Code of the City of Wichita.)
3. The site shall be developed in general conformance with the approved site plan.
4. If after review by the Planning Director and the Superintendent it is determined the activity authorized by CON2006-00032 is not in compliance with the approved conditions of approval, this Conditional Use Permit may be declared null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Adjacent properties to the north, east and west are used for industrial uses and zoned LI Limited Industrial. The land to the south is developed with single-family residential uses and is zoned MF-29 Multi-family Residential. Access to the site is through an established industrial area. There is a significant hedgerow separating the residential use from the application area. West Street, which provides the arterial street connection to South 30th Street is a significant industrial corridor for heavy equipment dealers, warehousing and other industrial uses.
2. The suitability of the subject property for the uses to which it has been restricted: The site could be used as currently zoned as LI Limited Industrial zoning, which permits a wide variety of commercial and industrial uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The recommended conditions of approval and various local and state regulations dealing with the transfer of this type of waste will minimize any detrimental affects on nearby traffic. Since the request is for the transfer of waste, not the disposal of the waste, potential detrimental impacts are minimized.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Controlled collection and transport of this type of waste is essential to maintaining the public's health. Denial would presumable result in less efficient disposal that could add to the cost of health care.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide" depicts this site as appropriate for "employment/industry center."
6. Impact of the proposed development on community facilities: None identified.

MOTION: To approve subject to staff comments.

DUNLAP moved, **DOWING** seconded the motion and it carried (13-0).

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7. **Case No.: CUP2006-32/ZON2006-28** – Builders, Inc., c/o Brad Smisor (owner); Baughman Company, PA, c/o Terry Smythe (agent) Request Creation of County Commercial Community Unit Plan (Rocky Ford) DP – 300 and County zone change from SF-20 Single-family Residential to LC Limited Commercial on property described as;

That part of the Northwest Quarter of Section 8, Township 28 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas described as follows: Commencing at the Southwest corner of said Northwest Quarter; thence Northerly along the West line of said Northwest Quarter, 150.02 feet to a point 150.00 feet normally distant North of the South line of said Northwest Quarter and for a point of beginning; thence East parallel with the South line of said Northwest Quarter, 660.10 feet to a point 660.00 feet normally distant East of the West line of said Northwest Quarter; thence Northeasterly to a point 266.00 feet normally distant North of the South line of said Northwest Quarter and 770.00 feet normally distant East of the West line of said Northwest Quarter; thence Northerly parallel with the West line of said Northwest Quarter, 1065.55 feet, more or less, to a point on the North line of the South Half of said Northwest Quarter; thence Westerly along the North line of the South Half of said Northwest Quarter, 770.05 feet to the Northwest corner of the South Half of said Northwest Quarter; thence Southerly along the West line of said Northwest Quarter, 1177.10 feet, more or less, to the point of beginning. Generally located East of Rock Road and south of 31st Street South.

BACKGROUND: The applicant proposes to create a commercial community unit plan and rezone an 18.98-acre tract from "SF-20" Single-family Residential to "LC" Limited Commercial. The property is located east of Rock Road between one-fourth mile and one-half mile south of 31st Street South. The CUP would have six parcels for commercial use. Parcels 1-5 would be small parcels located along Rock Road ranging in size from 1.14 to 1.43 acre (Parcel 1-1.44 acres, Parcel 2-1.43 acres, Parcel 3-1.15 acres, Parcel 4-1.15 acres, Parcel 5-1.14 acres). Parcel 6 would be 12.67 acres in size and would be located along to the east of Parcels 1-5, with one direct connection to Rock Road.

The proposed CUP is within the study area of the Joint Land Use Study "JLUS" conducted jointly by Sedgwick County, the City of Wichita and the City of Derby to identify compatible land use with the continued operation of McConnell Air Force Base.

Requested uses would be those allowed by right in LC except: adult entertainment establishments, sexually oriented businesses, correctional placement residences, asphalt/concrete plants, safety service, pawn shop, agricultural sales and service. Additional use restrictions to complement the proximity of the site to McConnell Air Force Base are recommended, including 1) prohibiting all residential uses; church or place of worship; college or university; convalescent care facility, limited and general; group home, limited, general and commercial; hospital; library; school, elementary, middle and high; bed and breakfast inn; hotel or motel; vocational school; night club in the city; night club in the county; tavern and drinking establishment; and recreation and entertainment, indoor; 2) recommendation of noise attenuation methods in construction and 3) a real estate disclosure process.

Maximum height of 25 feet (and two-story) is recommended, also in response to anti-terrorism and force protection concerns of McConnell Air Force Base. Maximum building coverage would be 30 percent and maximum gross floor area would be 35 percent. A maximum of one building is proposed for Parcels 1-5 each and four buildings for Parcel 6. Building setbacks would be 35 feet on along Rock Road; it is recommended that the 15-foot setbacks along exterior property lines of Parcels 1 and 5 be increased to the standard 35 feet for CUPs. Internal setbacks are 15 feet. A six-foot masonry wall would be required along residential zoning.

Buildings would have uniform architectural compatibility and parking lots would have similar or consistent lighting elements, limited to 24 feet in height.

Monument signage is requested with a maximum height of 20 feet. Portable and off-site signs would be prohibited. Flashing signs (except for signs showing only time, temperature and other public service messages), rotating or moving signs, signs with moving lights or creating the illusion of movement would be prohibited. The amount of signage initially requested exceeds the Sign Code square footage requirements for 0.8 times the linear frontage on Rock Road; it is recommended that signage be revised to limit signage to one monument sign per parcel with a maximum size of 120 square feet on Parcels 1-5 and 250 square feet on Parcel 6 located at the main entrance along Rock Road.

The site currently is in agricultural use. The property to the north, east and south is zoned SF-20 and is in agricultural use. A single-family residential plat has been filed for the property to the east. McConnell Air Force Base is located west of Rock Road and is zoned SF-20.

CASE HISTORY: The property is unplatted, but is included in the sketch plat, Rocky Ford Addition filed July 6, 2006.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-20	Agricultural
SOUTH:	SF-20	Agricultural/farmstead
EAST:	SF-20	Agricultural/undeveloped
WEST:	SF-20	McConnell Air Force Base

PUBLIC SERVICES: Currently, Rock Road is improved as a four-lane undivided principal arterial roadway. Requested access consists of one full movement opening and two right-in/right-out openings onto Rock Road. The CUP also would have one point of access to the street being platted along its southern boundary.

Traffic counts on Rock Road south of 31st Street South were 17,221 vehicles in 2004 (county count). The 2030 projection for Rock Road is 31,500 vehicles per day.

The nearest public water and sewer service are approximately three-fourth to one mile north of the property.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide, as amended May 2005" of the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "employment/industry center" use and shows the property as a "Potential Future Park Site". The employment/industry center recommendation was based upon the 1994 Air Installation Compatible Use Zone (AICUZ) study for McConnell AFB and the property remains within the "Maximum Mission Area" identified by the Joint Land Use Study. The site is within the proposed one-half mile wide anti-terrorism/force protection zone around McConnell.

Commercial Objective III.B encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses", with **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress location. The proposed CUP incorporates architectural and lighting compatibility, cross-lot circulation, a site circulation plan for each phase but not coordinated for the whole development, and combined ingress-egress. Requirements for similar landscaping, shared or similar signage, and an overall site circulation plan would enhance compatibility with the objective/strategies of the Comprehensive Plan.

Commercial Locational Guideline #1 of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterial streets. The proposed development complies with this guideline. **Commercial Locational Guideline #3** recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use, and **#4** recommends compact clusters versus extended strip development. The proposed CUP restricts the height of parking lot lighting to 24 feet. Wider setbacks or use restrictions within 200 feet of residential zoning would mitigate conflicts with the residential properties shown on Rocky Ford Addition along the eastern boundary of the CUP. The total length of frontage for commercial use is one-fourth mile, which is relatively long, but it is designed with a larger parcel sufficiently deep to be used for a shopping center type of building and thus keep the commercial use more compact than single-width commercial lots along the arterial street.

RECOMMENDATION: Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to platting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2006-28) to LC Limited Commercial subject to platting of the entire property within one year;
- B. APPROVE the Community Unit Plan (DP-300), subject to the following conditions:
 1. Transportation improvements:
 - a. Accel/decel lanes shall be provided for the three access points on Rock Road, with length to be determined at time of platting.
 - b. One access point shall be provided from Parcel 6 at a point east of Reserve "B" of the collector street to the south.
 - c. No access shall be permitted from Parcel 5 to the collector street to the south.
 - d. Pedestrian connectivity between the CUP, the future arterial sidewalk on Rock Road and the residential neighborhood shall be provided in Reserve "C" and "G".
 2. No development shall be permitted until public water and sewer is available.
 3. Revise setbacks on the north line of Parcel 1 and south line of Parcel 5 to 35 feet.
 4. Revise Parcel Descriptions 1-6 as follows: "Maximum building height shall be limited to 25 feet or two-story buildings, whichever is lower in height.
 5. Add to General Provision #7A: "and share similar elements in design." Add to General Provision #7C: "billboards". Revise General Provision #7F to limit signage to one monument sign per parcel with a maximum size of 120 square feet

on Parcels 1-5 and 250 square feet on Parcel 6, located at the main entrance along Rock Road, with total signage on Rock Road not exceeding 0.8 times linear frontage.

6. Add to General Provision #10A: "including fixtures, lamps and base,"
7. Add to General Provision #12A: "with a shared palette of landscape materials among parcels."
8. Add to General Provision #13B: "or compatible".
9. Add to General Provision #14 and 15: "with similar materials to the main buildings".
10. Add to General Provision #18: These uses shall be prohibited: all residential uses; church or place of worship; college or university; convalescent care facility, limited and general; group home, limited, general and commercial; hospital; library; school, elementary, middle and high; bed and breakfast inn; hotel or motel; vocational school; night club in the city; night club in the county; tavern and drinking establishment; and recreation and entertainment, indoor. Restaurants shall not have drive-through windows or in-car service located within 200 feet of residential zoning and order boards shall not be audible from the residential property lines. No overhead doors shall be permitted within 200 feet of residential zoning and shall not be facing any residential zoning district."
11. Add to General Provision #25: "An overall site plan for shall be required for review and approval by the Planning Director prior to the issuance of any building permits; the site plan shall ensure internal circulation within the parcels and joint use of ingress/egress openings and that private drive openings are not impacted/ blocked by the layout of parking stalls or landscaping."
12. Add General Provision #26: "Noise attenuation methods shall be incorporated in construction of the buildings."
13. Add General Provision #27: "Notice shall be provided of a real estate disclosure process to inform prospective owners of issues from locating near a military base."
14. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
15. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
16. All property included within this CUP and zone case shall be platted within one year after approval of this CUP by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
17. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-300) includes special conditions for development on this property.
18. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site currently is in agricultural use. The property to the north, east and south is zoned SF-20 and is in agricultural use. A single-family residential plat has been filed for the property to the east. McConnell Air Force Base is located west of Rock Road and is zoned SF-20. The proposed CUP is within the study area of the Joint Land Use Study "JLUS" conducted jointly by Sedgwick County, the City of Wichita and the City of Derby to identify compatible land use with the continued operation of McConnell Air Force Base.
2. The suitability of the subject property for the uses to which it has been restricted: The area is less suitable for the use as currently zoned (suburban residential) since it is within the "Maximum Mission Area" of McConnell Air Force Base and within the one-half mile buffer zone of the base.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The recommended conditions are designed to minimize conflicts between the commercial development and McConnell Air Force Base by limiting heights and eliminating uses the base finds to be an anti-terrorism and force protection risk.
4. Length of time the subject property has remained vacant as zoned: The property is in agricultural use. Water and sewer service has not been extended to the site so that it not ready for urban-type use yet.
5. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: According to a recent article "McConnell Air Force Base puts nearly \$370 million into Wichita's economy, according to Air Force Data. The base itself is worth nearly \$1.4 billion." ("Defending Kansas Bases: McConnell, others hope to avoid closing list," *The Wichita Eagle*, January 17, 2005, p. 1). The proposed development plan and recommended conditions are designed to lessen concerns of the base.
6. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "Wichita Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "employment/industry center" use and shows the property as a "Potential Future Park Site". The employment/industry center recommendation was based upon the 1994 Air Installation Compatible Use Zone (AICUZ) study for McConnell AFB and the property remains within the "Maximum Mission Area" identified by the Joint Land Use Study. The site is within the proposed one-half mile wide anti-terrorism/force protection zone around McConnell. **Commercial Objective III.B** encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses", with **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress location. The proposed CUP incorporates architectural and lighting compatibility, cross-lot circulation, a site circulation plan for each phase but not coordinated for the whole development, and combined ingress-egress. Requirements for similar landscaping, shared or similar signage, and an overall site circulation plan would enhance compatibility with the objective/strategies of the Comprehensive Plan. **Commercial Locational Guideline #1** of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterial streets. The proposed development complies with this guideline. **Commercial Locational Guideline #3** recommends site design features that limit noise, lighting and

other aspects that may adversely affect residential use, and #4 recommends compact clusters versus extended strip development. The proposed CUP restricts the height of parking lot lighting to 24 feet. Wider setbacks or use restrictions within 200 feet of residential zoning would mitigate conflicts with the residential properties shown on Rocky Ford Addition along the eastern boundary of the CUP. The total length of frontage for commercial use is one-fourth mile, which is relatively long, but it is designed with a larger parcel sufficiently deep to be used for a shopping center type of building and thus keep the commercial use more compact than single-width commercial lots along the arterial street.

7. Impact of the proposed development on community facilities: The additional traffic is expected to generate significant additional traffic on Rock Road. The accel/decel lanes are designed to mitigate the potential conflicts from traffic entering and exiting the site with the high speed through traffic. Water and sewer lines will need to be extended approximately one mile or more to serve this and other areas to be developed south of 31st Street South.

MOTION: To approve subject to staff comments.

DUNLAP moved, **DOWING** seconded the motion and it carried (13-0).

8. **Case No.: DER 2006-11** – Request Review zoning area of influence boundary

Reason For Change

Due to changes in city limit boundaries and with the adoption of the “2030 Projected Growth Area” boundaries, a number of the communities located in Sedgwick now have boundary conflicts between Zoning Area of Influence (ZAOI) boundaries and city limit boundaries.

Proposed Boundary Changes

Staff's proposal is to change the zoning area of influence boundaries where boundary conflicts occur, and to leave as is where no conflict exists. The boundaries of the “Small City 2030 Urban Growth Area,” as depicted on the adopted “Wichita and Small Cities 2030 Urban Growth Areas” map were used to guide the proposed changes. In the cases where city limit lines are beyond projected growth areas, alternate boundaries are proposed.

Staff made a presentation at the February 11, 2006, Sedgwick County Association of Cities (SCAC) regarding the proposed modifications to the ZAOI boundaries. A map was distributed depicting proposed changes. Not all cities had representatives at the SCAC meeting so after the SCAC meeting the draft map and a letter were sent out asking them to review the proposal and provide comments. To date, four cities have responded in writing and one city phoned in comments. The Derby, Kechi, Bentley and Park City comments are attached. Valley Center called, indicating they would like their ZAOI boundary to be the same as the Valley Center School district.

Sedgwick County Experience

Prior to 1985 Sedgwick County did not have countywide zoning regulations. Therefore when countywide zoning was adopted in 1985, many of the cities in Sedgwick County had adopted three mile ring zoning – Mt. Hope, Andale, Colwich, Sedgwick, Maize, Valley Center, Mulvane, Derby, Haysville, Clearwater, Garden Plain, Cheney, Goddard and Wichita. In addition, Grand River Township had adopted township zoning. (See attachment entitled County Zoning and Subdivision Jurisdiction.) Prior to 1985, builders, developers and citizens in Sedgwick County had 15 different sets of zoning regulations dealing with land use in force. Therefore, it was desirable to substitute a single set of uniform zoning regulations that applied countywide in place of the multi-jurisdictional situation then in effect. As noted above, state law allows the County to establish zoning regulations in the county that supercedes a city's extra-territorial zoning jurisdiction. To make countywide zoning attractive to all the cities in the County, the 1985 *Zoning Regulations for the Unincorporated Area of Sedgwick County, Kansas* established the “zoning area of influence” concept and procedures.

Section 1.C.1 of the 1985 County Zoning Code stated that in order to provide for consideration by the City Planning Commissions of the second and third class cities in Sedgwick County of certain rezoning requests, Zoning Areas of Influence, as shown on the Zoning Areas of Influence Map dated January 1, 1985 is hereby established. Section 17.C.4 stated that for changes in zoning classification or district boundaries or for conditional use or special permit use requests for property located within the zoning area of influence for any city of the second and third class within Sedgwick County, the planning commission of that city may hold a public hearing and make a recommendation to the Commission. In making its recommendation, the city's planning commission shall consider the factors listed in Section 17.C.5 (the Golden factors). The MAPC shall hold a public hearing for the zone change request or conditional use or special use request and consider the recommendation of the city's planning commission before issuing its recommendation to the County Commission. The County Commission shall not approve the request, except by unanimous vote, when the city's planning commission recommends against the request.

The 1985 County Zoning Code contained a map defining each city's ZAOI boundary (January 1, 1985 map is attached). It can be noted that the area covered by each city's individual ZAOI varied considerably. Maize and Bentley had the smallest areas covering approximately one mile around the city. Several of the other cities, Garden Plain, Goddard and Andale, have approximately three miles around their cities.

Recent Requests to Amend Boundaries

In 1995, some of the second and third class cities - Maize, Sedgwick, Kechi, Mulvane and Clearwater - sought to expand their existing ZAOI boundaries. At that time the County Commission denied all but the City of Maize's request. The City of Maize's original ZAOI was the smallest area, extending only one mile beyond their 1985 city limits. Most other cities boundaries were much greater than that, extending up to three and one-half miles out in some cases. In an effort to accommodate the concerns expressed by some of the cities, informal notice areas were established for Sedgwick, Kechi, Mulvane and Clearwater whereby applications located in the areas proposed for expansion were designated as an “informal notice area.” When applications in these areas are received, staff sends notice of the applications to the cities so that they may comment on the application if they so choose. Their

comments do not carry any voting requirement for the governing body, but provide a way for the city to be made aware of an application when they might not be otherwise so advised. (Amended 1995 map attached.)

In 1997, Park City, Kechi, Cheney and Bentley made requests for an expanded ZAOI. Apparently those requests were denied.

ANALYSIS

Objections to Expanded ZAOI

The primary concern expressed against expanded zoning areas of influence dealt with the unanimous vote requirement that is triggered when the city of the second or third class recommends denial of the application. That is a very difficult hurdle to overcome. In the last 18 years, staff is aware of only four times the County Commission has overturned a denial recommendation from the city of the second or third class. At the time the earlier requests for an increase in area were made, staff surveyed other jurisdictions attempting to find another code that contained a unanimous vote requirement. Staff did not find any other jurisdiction with the unanimous vote requirement.

Current Situation

Seventeen of the 19 incorporated cities in Sedgwick County have zoning areas of influence. Wichita and Eastborough do not have zoning areas of influence. Due to annexations some of the cities have incorporated land into their city boundaries that is located outside of their existing ZAOI. Bel Air has 240 acres located outside of their zoning area of influence boundary. Park City, Maize and Haysville also have land within their city limits that is located beyond their current ZAOI boundaries. Because of these changes and due to the identification of adopted 2030 Urban Growth Areas, it may be appropriate to modify the current ZAOI boundaries to reflect new city limit lines, projected growth areas and outdated courtesy notices. Four cities – Mulvane, Clearwater, Kechi and Sedgwick – have informal notice areas. Applicants are now required to post signs advising that the property is up for consideration of a zoning or subdivision action. This signage was not required at the time the informal notice areas were created. The signage and informal notice seem redundant.

RECOMMENDATIONS

1. Modify the ZAOI boundaries for Bel Aire, Kechi, Park City, Valley Center, Maize, Derby, Haysville, Colwich and Goddard as identified on the attached map.
2. Eliminate the joint notice area between Park City and Kechi along Hillside, between 53rd and 77th Street, between Valley Center and Park City along Broadway 1 1/2 miles south of 85th Street and between Bel Aire and Kechi.
3. Eliminate all informal notice areas.
4. Other cities: Leave their existing boundaries as is.

The recommended changes are made to address conflicts with existing city limit boundaries and to account for projected growth areas that conflict with existing zoning area of influence boundaries.

DALE MILLER, Planning Staff, presented the staff report.

He explained that the issue of zoning area of influence boundaries came up during recent public hearings on updating the Comprehensive Plan – 2030 Growth and Urban Service Boundaries. He said Planning Staff tried to follow the boundaries established by the 2030 land use map for the County for the zoning area of influence boundary as much as possible.

DUNLAP asked if any of the small communities had made efforts to establish or update their own comprehensive plans?

MILLER responded that state law did not require a community to have a comprehensive plan, unless they wanted to implement certain land use regulations.

MARNELL asked why this issue was not referred to the Advanced Plans Committee.

MILLER explained that staff discussed that; however, since the updated Comprehensive Plan, including the 2030 Growth and Urban Service Boundaries was so recently adopted; and zoning area of influence boundaries were discussed at that time, it seemed redundant.

MARNELL commented that it appeared that this was going to be a controversial issue and that it would be better for the Advance Plans Committee to review the issue and make a recommendation to the MAPC, rather than try to go through and hash out all that details at this meeting.

Karen Bailey, City Clerk, Acting Zoning Administrator, City of Goddard – stated that the zoning area of influence boundary as proposed represented an eight square mile reduction to Goddard's zoning area of influence. She commented that all property to the east of the City, with the exception of one mile, was in the Goddard School District (U.S.D. 265). She said if the proposed boundary were to be approved, Goddard would not have three miles on all sides of the city. She said another issue was the US 254 Expressway, if it should ever become funded. She said Goddard is interested in this transportation corridor, as well as preservation and planning around the City. She concluded by referring MAPC members to her letter dated August 6, 2006, and Minutes of the April 13, 2006 Goddard Planning Commission Meeting where the Commission voted unanimously to disapprove the boundary map as proposed.

Laura Fisher, City Clerk and Zoning Administrator, City of Bentley – commented that in 1997 the City of Bentley submitted a request to expand their zoning area of influence boundary; however, that request was denied by the MAPC. She apologized for not getting their written response to the current boundary proposal in by the April 15th deadline. She commented that the City of Bentley is growing. She said no one is competing for the areas west and south of the City; however, it was not a matter of competition. She said Eagle Township would like to be notified when development is going on that will affect the City and school district, prior to approval, instead of finding out about development “after the fact”. She said their purpose was not necessarily to stop development, but to better plan in terms of how new subdivisions or commercial development affect the City’s volunteer Fire Department, Emergency Medical Services, and school district enrollment. She concluded by expressing concern regarding the Planning Department’s proposal to do away with zoning change notification.

Kathy Sexton, City Manager, City of Derby – provided MAPC members with copies of her comments dated August 17, 2006. She referenced her letter dated April 11, 2006, where the City of Derby indicated it was opposed to the reduction in Derby’s zoning area of influence on the north and northwest boundaries of the city. She stated, in fact, Derby would like to see the north and northwest boundaries expanded to 47th Street. She commented that Derby has experienced double-digit growth for the past 20 years and is currently a community of 20,543 people. She referred to the map of Derby and the surrounding area. She mentioned Derby’s commitment to protecting McConnell AFB from development encroachment. She also mentioned that Rock Road was Derby’s front door and that it mattered to them how it was zoned and developed, and; therefore, it was important that they have some zoning area of influence in that area. She further commented that Derby was currently in the process of updating its Comprehensive Plan and expected approval within a month or so. She said the plan classified the area one half mile on either side of Rock Road up to 47th Street as Derby’s “near term growth area”. She concluded by saying that they are not arguing with the southeast development of Wichita, but they would like to keep the Rock Road corridor.

Tape 1, Side 2

Chris Morlan, Zoning Subdivision Administrator, City of Kechi – expressed concerns that the 2030 Growth and Urban Service Boundaries Plan eliminated some of Kechi’s current zoning area of influence and gave it to Park City. He made specific reference to Hillside, north of 61st Street to 77th Street; one half-mile north on 85th Street between Hillside and Hydraulic; and both sides of I-135. He provided MAPC member a map of Kechi and the surrounding area. He mentioned extension of utilities from US 254 to Rock Road and added that the new zoning area of influence as proposed didn’t seem consistent with the 2030 Growth Plan. He concluded by stating that Kechi preferred not to lose anything they already have in their zoning area of influence.

Jennifer Rose, Assistant City Administrator, City of BelAire – stated that the City of BelAire was currently going through an “organizational restructuring”, and that when Planning Staff developed the proposed zoning areas of influence for BelAire, they were probably not working with complete information. She mentioned several developing areas including the Central Park Development on 53rd Street at Rock Road (between Rock Road and Oliver) and Wickham Glass at 46th Street and Webb Road. She suggested extending several areas along Rock Road and Woodlawn and tidying up some boundaries. She added that she liked the idea of the proposed issue being referred to a special committee for further research and discussion.

Kim Edgington, Planning Administrator, City of Maize – stated that Maize was not at all opposed to the change to their boundary along the adjoining boundaries of Maize and Wichita. She said; however, Maize was asking the Planning Department to consider expanding their zoning area of influence because of the amount of activity currently taking place in Maize. She referenced Maize’s western boundary and asked about the possibility of shifting the proposed line one half mile west. She mentioned splitting the difference between Maize and Colwich. She also asked that consideration be given to some extension along the eastern boundary between 53rd Street North and K-96, and along Tyler Road between 45th and 53rd Street North to make room for new development.

MITCHELL asked why the river couldn’t be followed as Maize’s eastern boundary?

EDGINGTON replied that Maize would be in favor of that, and added that it was a logical boundary.

Jack Whitson – City of Park City – said he believed there was a direct correlation between future growth and area of influence, provided a City had the capability to grow and expand. He mentioned several projects currently being undertaken by Park City including a \$3,000,000 water line project north of 85th Street. He commented that Park City neighbors Valley Center and Kechi have plenty of room for growth, but added that all development drains through the City of Park City and they have a problem with development when drainage is not handled correctly. He said Park City opposed taking what little bit of zoning area of influence they have away from them.

GISICK asked for clarification regarding the statement about eliminating notifications.

MILLER explained that they were referring to “courtesy” notices, not notices required by State Statute. He further clarified that if a small city votes against a request, it requires a unanimous vote of the County Commission to override it.

ANDERSON asked why the City couldn’t accommodate the small city’s requests in some fashion and live in peace.

MILLER explained that planning staff was not suggesting that they couldn’t accommodate the city’s requests; however, up until a few days ago, staff had only heard from two cities. He said since the response deadline was April 15, 2006; staff thought they had heard from everyone who was interested.

MOTION: To refer the issue to the Advance Plans Committee and schedule meetings to try to accommodate the advice of communities concerning their zoning area of influence boundaries.

HILLMAN moved, **MARNELL** seconded the motion. Discussion.

MARNELL said since obviously there were going to be conflicts, he suggested breaking up the areas and holding a series of meetings.

SCHLEGEL clarified that Planning Staff should invite small cities to attend the meetings.

ANDERSON said he saw a lot of room for further negotiations and suggested that staff go back to the drawing board.

SHERMAN asked about the time line.

MILLER explained that the Planning Department had established a date that they felt was a reasonable amount of time in order to get the project completed; however, that could be extended in order for staff to get together with the various cities, work out compromises, and forward those recommendations to the MAPC.

JOHNSON expressed concern that all seventeen small cities might attend the series of meetings, instead of just the seven cities that were in attendance at today's meeting.

WARNER suggested the Commission let the Advance Plans Committee determine the process.

MOTION: Carried (14-0).

The Metropolitan Area Planning Department informally adjourned at 3:10 p.m.

State of Kansas)
Sedgwick County) ^{ss}

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2006.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)